

REMARKS

Claims 1-3, 6, 8-12, 14, 17-22, 24-31, and 33-36 are pending in the Application. Claims 1 and 36 have been amended as discussed below. Reconsideration and allowance of the claims is respectfully requested in view of the above amendments and the following remarks.

Claim Amendments

Claims 1 and 36 have been amended to specifically recite that the base material (Claim 1) and the acrylic rubber (Claim 36) are unvulcanized. Support for this amendment can be found throughout the application in that nowhere does the application teach that the material is vulcanized or comprises vulcanizing agents. Furthermore the descriptions of the Examples support the assertion that the base material is unvulcanized. The Examples (see paragraph 568 of the published application) teach that the base material is blended with the moment activator and formed into a sheet using a kneading roll set at 160°C. The contact time in a kneading roll at an elevated temperature is too short to cause the material to be vulcanized. Applicants note that use of the term “unvulcanized” in the pending claims is commensurate with the definition given by U.S. Patent No. 5,858,521 to Okuda (Okuda) at col. 3, lines 11 to 16 – namely that the term “unvulcanized” includes semi-vulcanized material or partially vulcanized material in which the degree of crosslinking is 50% or less.

No new matter is introduced by this amendment, since the application as a whole and the Examples in particular teach this embodiment. “[M]atter added that makes explicit that which was implicit, inherent, or intrinsic in the original disclosure is not new matter and is permitted”. 35 U.S.C. § 132. Furthermore, “conformation of one part of the disclosure to another portion thereof is clearly permissible.” 37 C.F. R. § 1.117. Since Applicants have disclosed Examples wherein the absence of vulcanizing agents and hence vulcanization is an inherent feature of the examples, Applicants are permitted to later amend the Application to recite the inherent feature without introducing new matter. In re Smythe and Shamos, 178 U.S.P.Q. 279, 285-286 (C.C.P.A. 1973).

Prior to the current amendment the pending claims stood rejected as obvious in view of Okuda. Applicants note that Okuda discloses making a vibration damping material comprised initially of an unvulcanized material which is installed in the appropriate location and then vulcanized. Specifically, Okuda teaches that the viscoelastic layer 3 is made by milling the unvulcanized rubber with a vulcanizing agent and other ingredients, using calendar rollers (similar to our kneading roller) to form a sheet (col. 5, lines 36-41). The sheet is then layered with other materials. The sheet is installed in the desired location then baked to vulcanize it (Col 13, lines 1-14). Okuda also discusses this in the examples where he teaches, at col. 17, lines 35 to 40, that the viscoelastic layer was vulcanized. Thus Okuda makes it clear that the actual material used as a vibration damping material is vulcanized. Applicants respectfully assert that Okuda does not teach a method as instantly claimed because the final vibration damping material of Okuda is vulcanized whereas the method of the pending claims requires an unvulcanized material.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,
CANTOR COLBURN LLP

By Patricia S. De Simone
Patricia S. DeSimone
Registration No. 48,137

Date: January 30, 2008
Customer No. 23413
Phone No. (860) 286-2929